

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: FEBRUARY 7, 2007**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-18161 - APPLICANT/OWNER: HENRY J. STAZENSKI, JR. AND CINDY K. STAZENSKI**

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**\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (7-0 vote) recommends APPROVAL, subject to:

**Planning and Development**

1. This approval shall be void one year from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
2. A six-foot block wall along the rear property line.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a Request for a Variance to allow a rear setback of 12 feet where 15 feet is required to enclose an existing patio on an existing single family residence at 3941 Costa Mesa Avenue.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
05/05/06	City of Las Vegas Code Enforcement opened a case regarding a non-permitted (Rear) Room Addition on the subject site. Applicant was informed that the addition must be permitted or removed by May 16. Code Enforcement personnel and the applicant remained in communication through the permitting process, and the case was closed upon application for this Variance.
01/11/07	The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #30/r1).
<b><i>Related Building Permits/Business Licenses</i></b>	
No previous actions on the subject site	
<b><i>Pre-Application Meeting</i></b>	
11/13/06	A pre-application meeting was held to discuss the requirements of the Variance, conditions on the subject site and the rear yard setback requirements.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required for this application, nor was one held.	

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Gross Acres	0.15
Net Acres	0.15

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Single Family Residential	L (Low Density Residential)	R-1 (Single Family Residential)
North	Single Family Residential	L (Low Density Residential)	R-1 (Single Family Residential)
South	Single Family Residential	L (Low Density Residential)	R-1 (Single Family Residential)
East	Single Family Residential	L (Low Density Residential)	R-1 (Single Family Residential)
West	Single Family Residential	L (Low Density Residential)	R-1 (Single Family Residential)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Area Plan</b>		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>		X	N/A
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

## DEVELOPMENT STANDARDS

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	6,500 Square Feet	6,457 SF	N*
Min. Lot Width	65 Feet	68 Feet	Y
Min. Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Corner</li> <li>• Rear</li> </ul>	20 Feet 5 Feet N/A 15 Feet	22 Feet 5.5 Feet N/A 12 Feet	N**
Max. Lot Coverage	50%	24%	Y

\* Lot is a legal non-conforming use as constructed in 1973.

\*\* Subject of this Variance.

## ANALYSIS

While the proposed deviation from standards to allow a rear yard setback of 12 feet where 15 feet is the minimum required will not have a significant effect on adjacent properties, the deviation from standards is considered a self-imposed hardship. The existing patio was built with the original house in 1973, and is consistent with those of neighboring homes as evidenced in the aerial imagery of the Park Bonanza East subdivision of which the subject site is a part. The applicant/owner began framing the patio without proper permits. Code Enforcement opened case #40723 on 05/05/06 regarding a non-permitted extension. The applicant applied for a building permit on 05/30/06 and was informed that a Variance was needed for the rear setback. While the house on the subject site sits farther back on the property than other homes in the neighborhood in order to accommodate a knuckle in the street, this does not constitute a hardship as the encroachment of the existing patio, which is not enclosed into the rear setback is allowed. Enclosing the patio as proposed is an attempt to overbuild the site, and staff cannot recommend approval for this application.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by enclosing a patio within the rear yard setback. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

## **PLANNING COMMISSION ACTION**

Condition #2 was added by the Planning Commission.

## **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**ASSEMBLY DISTRICT** 11

**SENATE DISTRICT** 10

**NOTICES MAILED** 451 by City Clerk

**APPROVALS** 2

**PROTESTS** 0